

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

**IN RE: PHARMACEUTICAL INDUSTRY AVERAGE  
WHOLESALE PRICE LITIGATION**

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

**MDL No. 1456**  
C.A. No. 01-12257-PBS

Judge Patti B. Saris

**RESPONSE OF CONSUMER PLAINTIFFS TO CLASS PLAINTIFFS' REPORT TO  
THE COURT REGARDING NOTICE IN THE TRACK TWO SETTLEMENT AND  
MOTION TO RESET CERTAIN DATES RELATED TO CONSUMER CLAIMS**

The Fairness Hearing should be deferred in its entirety until all the requisite steps ordered by the Court have been completed in advance of the same. Beyond not having provided first class mail notice to consumers, class counsel have not filed any materials in support of final approval or their fee request, both of which were required to be filed by November 10 under the Preliminary Approval Order. Without such submissions or notice, Class members can not be expected to file any objections they may have by the December 1, 2008 deadline, which class counsel has not sought to move by their Motion. At a minimum, should the Court choose to proceed with the bifurcated hearing on December 16, the deadline for any Class member to interpose objections to the settlement should be extended until the same extended deadline set for filing requests for exclusion, March 16, 2009.

Date: November 26, 2008

Respectfully submitted,  
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Harold Bean*

**CERTIFICATE OF SERVICE**

I, Donald E. Haviland, Jr., Esquire, hereby certify that on November 26, 2008, I filed the foregoing Response of Consumer Plaintiffs to Class Plaintiffs' Report to the Court Regarding Notice in the Track Two Settlement and Motion to Reset Certain Dates Related to Consumer Claims with the Clerk of this Court and used the CM/ECF system to send notification of such filing to all registered person(s). I also caused courtesy copies to be faxed to the following:

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